

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
CIVIL MINUTES—GENERAL

Case No. **EDCV 14-730-JGB (KKx)**

Date: April 16, 2019

Title: *Xerox Corporation v. K. S. Printing*

Present: The Honorable **KENLY KIYA KATO, UNITED STATES MAGISTRATE JUDGE**

DEB TAYLOR

Deputy Clerk

Not Reported

Court Reporter

Attorney(s) Present for Plaintiff(s):

None Present

Attorney(s) Present for Defendant(s):

None Present

Proceedings: (In Chambers) Order Denying Without Prejudice Application for Appearance and Examination of Third Party Re: Enforcement of Judgment [Dkt. 59]

On February 2, 2018, judgment was entered in favor of Xerox Corporation (“Judgment Creditor”) and against K.S. Printing (“Judgment Debtor”). Dkt. 38.

On April 11, 2019, Judgment Creditor filed an Application for Appearance and Examination of Third Party Re: Enforcement of Judgment (“Application”). ECF Docket No. (“Dkt.”) 59. Counsel for Judgment Creditor, Robert V. McKendrick, filed a declaration in support of the Application under California Code of Civil Procedure section 708.120. Dkt. 59-1, Declaration of Robert V. McKendrick (“McKendrick Decl.”). Mr. McKendrick states he believes Ralph Azar is the Secretary and Chief Financial Officer of Judgment Debtor and “has possession and control of books and records relative to” Judgment Debtor. *Id.* at ¶ 3. Therefore, Judgment Creditor seeks to require Mr. Azar to appear and furnish information to aid in enforcement of the money judgment against Judgment Debtor. *Id.* at ¶ 4.

California Code of Civil Procedure section 708.120 provides a means for judgment creditors to obtain a court order to examine a “third person [who] has possession or control of property in which the judgment debtor has an interest or is indebted to the judgment debtor in an amount exceeding two hundred fifty dollars (\$250).” Cal. Civ. Proc. Code § 708.120(a).

Here, Mr. McKendrick’s declaration is insufficient to establish Mr. Azar has possession or control of property in which Judgment Debtor has “an interest” as required under California Code

of Civil Procedure section 708.120.¹ Hence, Judgment Creditor's Application is DENIED without prejudice.

IT IS SO ORDERED.

¹ While not entirely clear, it appears Plaintiff may have intended to seek an examination of Mr. Azar pursuant to California Code of Civil Procedure section 708.130.